

STATE OF INDIANA

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MEMORANDUM

TO: Assessing Officials and County Auditors

FROM: Cheryl A.W. Musgrave, Commissioner *CWM*

DATE: July 18, 2008

SUBJECT: Elimination of the Form 101 and Additional Personal Property Changes

This memorandum details changes in the law resulting from the 2008 General Assembly affecting the assessment of personal property and the transfer from property tax to excise tax of certain property.

The Form 101 (State Form 22671), *Individual's Tangible Personal Property Assessment Return*, has been eliminated in its entirety, effective on **January 1, 2009**. To achieve the elimination of the form, new laws expanded the list of property exempt from property assessment and taxation to include all property formerly filed on the Form 101. Most of the property formerly assessed on the Form 101 will now be taxable as excise tax and payable at the Bureau of Motor Vehicles ("BMV") beginning in 2010. The remainder will be free from taxation.

This transfer of taxation of Form 101 property from personal property to excise tax is a long-held goal of many assessing officials and taxpayers. The benefits of this change include allowing taxpayers owning property subject to licensing requirements such as recreational vehicles ("RVs"), to make only one stop-at the BMV to take care of licensing and tax payments. In addition, in most jurisdictions, the volume of Form 101 filings was large in comparison to the amount of revenue collected resulting in maximum effort by staff for minimal financial returns. Taxpayers will be reassured to know that although taxes will be collected as excise and not as personal property, the excise taxation amounts are not expected to differ substantially from the amount payable as personal property.

Several items formerly taxed will no longer be subject to taxation. These include: all-terrain vehicles ("ATVs"), snowmobiles, human powered boats, invalid chairs, yard and garden tractors, and golf carts.

Until July 1, 2008, the collection and processing of personal property forms, including the Form 101, was the responsibility of township assessors and township trustee assessors. The elimination of this form will substantially reduce the number of personal property filings and the work associated with processing these forms.

The changes to statute to reflect this transfer of duty and authority from township to county assessors is detailed below. In addition, state law no longer requires the county to furnish office space to any township assessor, including those retained after July 1, 2008.

This memorandum will generally follow the sequence found in HEA 1001. However, all sections pertaining to similar subjects have been grouped together for convenience. The format is similar to the statutory language. The words in **bold** indicate new language added by HEA 1001 (P.L. 146-2008) or HEA 1125 (P.L. 131-2008), and the effective dates of the particular sections of the Code.

1. Inventory & Personal Property:

Department's Note: Inventory exemption from property assessment and taxation was previously discussed in a separate memorandum distributed by the Department of Local Government Finance ("Department") on March 31, 2008, and can be found at [http://www.in.gov/dlgf/files/Memo-Inventory-Exempt as of January 1 2008.pdf](http://www.in.gov/dlgf/files/Memo-Inventory-Exempt%20as%20of%20January%201%202008.pdf). Below is the new definition of "inventory" and "personal property." Also discussed below is the expanded list of property exempt from property assessment and taxation, including inventory, RVs and truck campers, snowmobiles, and ATVs.

a. *Definition of Inventory.* HEA 1001, Section 47 added a new section IC 6-1.1-1-8.4. This new section, effective as of **January 1, 2008 (retroactive)**, defines "inventory" as:

- (1) materials held for processing or for use in production;**
- (2) finished or partially finished goods of a manufacturer or processor; and**
- (3) property held for sale in the ordinary course of trade or business.**

The term includes items that qualify as inventory under 50 IAC 4.2-5-1 (as effective December 31, 2008).

b. *Personal Property Defined.* As a result of the changes to IC 6-1.1-1-11 and the definition of "personal property" in HEA 1001, Section 48 and HEA 1125, Section 2, "personal property," as of **January 1, 2008 (retroactive)**, means:

- (1) billboards and other advertising devices which are located on real property that is *not* owned by the owner of the devices;
- (2) motor vehicles, mobile houses, airplanes, and boats *not* subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5 [paragraph **repealed** effective **January 1, 2009** by HEA 1125, Section 2];
- (3) foundations (other than foundations which support a building or structure) on which machinery or equipment:

- (a) **held for sale in the ordinary course of a trade or business;**
- (b) **held, used, or consumed in connection with the production of income; or**
- (c) **held as an investment** [addition in **bold** effective **January 1, 2009** by HEA 1125, Section 2]; is installed
- (4) all other tangible property (other than real property) which:
 - (a) is being held as an investment; or
 - (b) is **depreciable personal property** [addition in **bold** effective **January 1, 2008 (retroactive)** by HEA 1001, Section 48]; and
- (5) **mobile homes that do *not* qualify as real property and are *not* described as “all other tangible property (other than real property)” above** [addition in **bold** effective January 1, 2009 by HEA 1125, Section 2].

c. *Not Personal Property.* Per IC 6-1.1-1-11, effective as of **January 1, 2008 (retroactive)**, personal property does not include the following:

- (1) Commercially planted and growing crops while in the ground.
- (2) Computer application software.
- (3) **Inventory** [effective **January 1, 2008 (retroactive)** by HEA 1001, Section 48].

d. *Exempt Property.* As a result of the amendments to IC 6-1.1-2-7 in HEA 1001, Section 50 and HEA 1125, Section 3, the property discussed below is *not* subject to property assessment and taxation, as of **January 1, 2008 (retroactive)**.

(1) **As used in this section, “nonbusiness personal property” means personal property that is not:**

- (a) **held for sale in the ordinary course of a trade or business;**
- (b) **held, used, or consumed in connection with the production of income; or**
- (c) **held as an investment** [addition in **bold** effective on **January 1, 2009** by HEA 1125, Section 3].

(2) The following property is *not* subject to property assessment and taxation:

- (a) A commercial vessel that is subject to the net tonnage tax imposed under IC 6-6-6.

(b) A motor vehicle or trailer as that is subject to the annual license excise tax imposed under IC 6-6-5 [“trailer” repealed by HEA 1125, Section 3 effective on **January 1, 2009**].

(c) A **motorized boat or sailboat** that is subject to the boat excise tax imposed under IC 6-6-11 [addition in **bold** effective on **January 1, 2009** by HEA 1125, Section 3].

(d) Property used by a cemetery (as defined in IC 23-14-33-7) if the cemetery:

i. does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; *and*

ii. has had no business transaction during the preceding calendar year.

(e) A commercial vehicle that is subject to annual excise tax imposed under IC 6-6-5.5.

(f) **Inventory** [addition in **bold** effective on **January 1, 2008 (retroactive)** by HEA 1001, Section 50].

(g) ¹**An RV or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1** [addition in **bold** effective **January 1, 2009** by HEA 1125, Section 3].

(h) ²**The following types of nonbusiness personal property:**

i. **All-terrain vehicles (“ATVs”).**

ii. **Snowmobiles.**

iii. **Rowboats, canoes, kayaks, and other human powered boats.**

iv. **Invalid chairs.**

v. **Yard and garden tractors.**

vi. **Trailers that are *not* subject to an excise tax under IC 6-6-5-5.5; IC 6-6-5.1; or IC 6-6-5.5** [addition in **bold** effective on **January 1, 2009** by HEA 1125, Section 3].

Department’s Note: *As a result of this expanded list of property exempt from property assessment and taxation, the Form 101 is unnecessary and will no longer be used, effective January 1, 2009.*

Department’s Note: *Golf carts were not specified in HEA 1125 as “nonbusiness personal property” exempt from property assessment and taxation in the above list or in HEA 1125, Section 61 (a non-Code provision). The Department, in accordance with its authority to interpret the property tax laws of the state in IC 6-1.1-35-1(1), has added “nonbusiness*

¹ Go to page 8 of 12, paragraph 4.

² Go to page 10 of 12, paragraph 5.

personal property” golf carts to the property assessment and taxation exemption list. Nonbusiness personal property golf carts are currently filed on the Form 101 and the intent of the changes to IC 6-1.1-2-7 was to eliminate the need for the filing of the Form 101.

2. Repealed Statutes: Inventory.

a. HEA 1001, Section 800 repealed several sections of Indiana Code, all effective as of **January 1, 2008 (retroactive)**, pertaining to inventory. The following sections of the law have been repealed:

(1) IC 6-1.1-3-11 (“inventory” defined; average method election), IC 6-1.1-3-12 (average method of valuing inventory; bookkeeping), and IC 6-1.1-3-13 (“processor” and “product” defined; assessment of processors inventory).

(2) Exemptions from property taxation laws, such as IC 6-1.1-10-29 (Manufacturer’s or processor’s property stored in instate warehouse for shipment to out-of-state destination); IC 6-1.1-10-29.3 (personal property shipped into state for transshipment out of state); IC 6-1.1-10-29.5 (property in original package in public warehouse for transshipment owned by nonresident or transported by carrier); IC 6-1.1-10-30 (property in original package in warehouse for transshipment); IC 6-1.1-10-30.5 (property held in foreign trade zone); and IC 6-1.1-10-31.1 (nonresidents; personal property shipped into state for transshipment out; claiming exemptions) were all repealed.

(3) Additionally, other exemptions from property taxations found in IC 6-1.1-10-31.4 (exemption for truck chassis owned by a nonresident motor vehicle dealer that is not a motor vehicle manufacturer and not held by resident for resale); IC 6-1.1-10-31.5 (passenger motor vehicles owned by a nonresident motor vehicle dealer that is not a motor vehicle manufacturer and not held by the resident for resale); IC 6-1.1-10-31.6 (school bus body and chassis not owned by the same person and not held by the resident for resale or for shipment within Indiana); IC 6-1.1-10-31.7 (procedure by which to claim exemption for sections 31.4, 31.5, or 31.6 by filing a personal property tax return); IC 6-1.1-10-40 (commodity that is located or stored in a regular warehouse or regular shipping plant); and IC 6-1.1-10-43 (inventory owned by an out-of-state dealer and located in Indiana for sale on the wholesale automobile market) were also repealed.

(4) Lastly, IC 6-1.1-10.1 (high impact business designation; included definition of “inventory”); IC 6-1.1-20.7 (credit for increases in inventory located on industrial recovery sites); IC 6-1.1-20.8 (enterprise zone inventory credit); IC 6-1.1-40-3 (definition of inventory from maritime opportunity districts) were repealed.

3. Procedures for Personal Property Assessments

Department’s Note: Several changes were made by the General Assembly in 2008 to the procedures for filing a personal property tax return. Most of these changes reflect the transfer of assessing duties from most elected township assessors and all trustee-assessors to the county assessor on July 1, 2008. For example, whereas the law may have only granted a

responsibility to the township assessor, the new law now gives that responsibility to the county assessor.

a. *Residents and nonresidents; place of assessment; and evidence of filing.* HEA 1001, Section 51 amended IC 6-1.1-3-1, effective as of **July 1, 2008**, to delete all references to IC 6-1.1-3-11, which defined “inventory” and was repealed in Section 800 effective January 1, 2008 (retroactive). Additional changes included recognition that townships with less than 15,000 real property parcels as of January 1, 2008, no longer have elected township assessors or trustee-assessors as of July 1, 2008. Personal property must still be assessed at the place where it is situated on the assessment date [March 1] if the property is: (1) regularly used or permanently located where it is situated; *or* (2) owned by a nonresident who does not have a principal office within this state. Also, if a personal property return is filed, the owner of the property must provide, within forty-five (45) days after the filing deadline [May 15], a copy or other written evidence of the filing of the return to the assessor of the township in which the owner resides **or to the county assessor if there is no township assessor for the township.**

b. *Conflicts over assessment location.* HEA 1001, Section 52 amended IC 6-1.1-3-4, effective as of **July 1, 2008**, to reflect the transfer of assessing duties from most elected township assessors and all trustee-assessors to the county assessor.

c. *Assessment books and blanks; delivery.* HEA 1001, Section 53 amended IC 6-1.1-3-5 to reflect the transfer of assessing duties from most elected township assessors and all trustee-assessors to the county assessor on **July 1, 2008.**

d. *Personal property return; furnishing to taxpayer.* HEA 1001, Section 54 amended IC 6-1.1-3-6, effective **July 1, 2008**, to reflect the transfer of assessing duties from most elected township assessors and all trustee-assessors to the county assessor.

e. *Filing personal property returns; extension of time; consolidated returns.* HEA 1001, Section 55 amended IC 6-1.1-3-7, effective as of **July 1, 2008**, to reflect the transfer of assessing duties from most elected township assessors and all trustee-assessors to the county assessor.

(1) As a result, a taxpayer is to file, on or before the filing date of each year [May 15], a personal property return with the township assessor or **the county assessor, if there is no township assessor, where the taxpayer’s personal property is subject to assessment.**

(2) Also as a result of the transfer of assessing duties to the county assessor, the township assessor **or county assessor** may grant a taxpayer an extension of not more than thirty (30) days to file the taxpayer’s return if:

(a) taxpayer submits a written application for an extension prior to the filing date; *and*

(b) taxpayer is prevented from filing a timely return because of sickness, absence from the county, or any other good and sufficient reason.

(3) References to filing a “consolidated return” were deleted. Effective **July 1, 2008**, if:

a taxpayer has personal property in more than one township in a county; *and* the total assessed value of the personal property in the county is *less than* \$1,500,000, the **taxpayer filing a return must file a single return with the county assessor and** attach a schedule listing, by township, of all the taxpayer's personal property and the property's assessed value. The reference to the taxpayer filing a consolidated return with the township assessor of each township is deleted. The taxpayer is required to provide the county assessor with the information necessary to allocate the assessed value of the taxpayer's personal property among the townships listed on the return, including the street address, the township, and the location of the property.

(4) The county assessor must still provide to each affected township assessor (if any) all information filed by a taxpayer that affects the township. However, the county assessor no longer must provide the information before May 25 of each year (for a return filed on or before the filing date for the return); or before June 30 of each year (for a return filed after the filing date for the return). No new due date was established by the General Assembly in the new law.

(5) Lastly, the county assessor may now refuse to accept a personal property tax return if the tax return does not **comply with** the requirements pertaining to assessable personal property in more than one township in a county with a total assessed value in the county under \$1,500,000.

f. *Verification of returns.* HEA 1001, Section 56 amended IC 6-1.1-3-14, effective **July 1, 2008**, to include a role for the county assessor if there is no township assessor.

g. *Failure to file return; alternative assessment procedures; election to file.* HEA 1001, Section 57 amended IC 6-1.1-3-15, effective **July 1, 2008**, to add a role for the county assessor due to the transfer of assessing duties from most elected township assessors and all trustee-assessors to the county assessor.

h. *Property converted for tax avoidance; assessment.* HEA 1001, Section 58 amended IC 6-1.1-3-16, effective **July 1, 2008**, to add reference to the county assessor.

i. *Assessment list; certification to county auditor.* HEA 1001, Section 59 amended IC 6-1.1-3-17, effective **July 1, 2008**, to clarify the township assessor's role in this statute. However, this section requires each township assessor (if any) to deliver to the county assessor, **on or before June 1 of each year**, a list which states by taxing district the total of the personal property assessments as shown on the personal property returns filed with the township assessor. **On or before July 1 of each year**, the county assessor is still required to certify to the county auditor the assessment value of the personal property in every taxing district.

j. *Reports to county assessors and auditors; copies of returns.* HEA 1001, Section 60 amended IC 6-1.1-3-18, effective **July 1, 2008**. This statute no longer requires a township assessor to deliver to the county assessor a copy of each business personal property return which the taxpayer is required to file in duplicate or a copy of any supporting data supplied by the taxpayer with the return. Instead, the county assessor is to review and audit the business personal property returns that the taxpayer is required to file in duplicate, and determine the

returns in which the assessment appears to be improper.

k. *Information available to county assessor and PTABOA.* HEA 1001, Section 61 amended IC 6-1.1-3-19, effective **July 1, 2008**, to reflect the transfer of assessing duties of most elected township assessors and all trustee-assessors.

l. *Change in valuation; notice.* HEA 1001, Section 62 amended IC 6-1.1-3-20, effective **July 1, 2008**, to eliminate reference to the PTABOA.

m. *Public inspection of assessment documents; assessor's office.* HEA 1001, Section 63 amended IC 6-1.1-3-21, effective **July 1, 2008**, to reflect the transfer of assessing duties of most elected township assessors and all trustee-assessors. The amended statute eliminated the requirement that the county furnish an office for a township assessor in the county courthouse, if the township served has a population of thirty five thousand (35,000) or more. It also eliminated the county's discretion to furnish an office in the county courthouse for any township assessor.

4. RV or Truck Camper Subject to New Excise Tax: Exempt from Property Assessment and Taxation. HEA 1125, Section 22 added IC 6-6-5.1 to the Indiana Code, effective on **January 1, 2009**. As amended in HEA 1125, Section 3, an RV or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1 is exempt from property assessment and taxation.

Department's Note: According to HEA 1125, Section 58, effective on January 1, 2009, the new RV and truck camper excise tax applies to RVs registered and truck campers located in Indiana after December 31, 2009 (i.e., pay-2010).

Department's Note: According to IC 6-6-5.1-1(13), the new excise tax does not apply to an RV or truck camper in the inventory of RVs and truck campers held for sale by a manufacturer, distributor, or dealer in the course of business.

Department's Note: According to IC 6-6-5.1-1(1), (3), and (6), the new excise tax on RVs and Truck Campers does not apply to a mobile home, or to a trailer subject to the annual motor vehicle excise tax imposed under IC 6-6-5-5.5; or a vehicle subject to the motor vehicle excise tax under IC 6-6-5.

a. *Definitions.*

(1) IC 6-6-5.1-6 defines "recreational vehicle" as the same meaning as set forth in IC 9-13-2-150(a): A vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways.

(2) IC 6-6-5.1-8 defines "truck camper" as a device without motive power that is installed in the bed of a truck to provide living quarters for persons traveling on public highways.

(3) IC 6-6-5.1-9 defines "vehicle" as the same meaning as set forth in IC 9-13-2-196(a): Except as otherwise provided in this section, a device in, upon, or by which a person or

property is, or may be, transported or drawn upon a highway.

b. RVs and Truck Campers: Subject to Excise Tax in 2010.

(1) IC 6-6-5.1-10 states that **beginning on January 1, 2010, an annual license excise tax is imposed on RVs and truck campers (i.e., pay-2010).**

(2) **The excise tax is imposed instead of the property tax, but in addition to any registration fees imposed on RVs.**

c. RVs and Truck Campers No Longer Assessed as Personal Property for pay-2010.

(1) IC 6-6-5.1-10(c) states **an RV may *not* be assessed as personal property for the purpose of the assessment and levy of personal property taxes after December 31, 2008 (i.e., March 1, 2009 assessment date), and is *not* subject to property taxes first due and payable after December 31, 2009 (i.e., pay-2010), regardless of whether the RV is registered under the motor vehicle registration laws. A person may *not* be required to give proof of the payment of property taxes as a condition to the registration of a RV subject to the excise tax.**

(2) **A truck camper may *not* be assessed as personal property for the purpose of the assessment and levy of personal property taxes after December 31, 2008 (i.e., March 1, 2009 assessment date), and is *not* subject to property taxes first due and payable after December 31, 2009 (i.e., pay-2010).**

Department's Note: RVs and truck campers will not be assessed as personal property on the March 1, 2009 assessment date. Instead, the new excise tax will be paid in 2010.

d. BMV Determines Value.

(1) IC 6-6-5.1-11 says, **as the basis for measuring the excise tax, the BMV is charged with determining the value of each RV and truck camper as of the time it is first offered for sale in Indiana as a new RV or truck camper. The BMV is required to adopt administrative rules for determining the value of RVs and truck campers by using:**

(a) the factory advertised delivered price or the port of entry price; *or*

(b) any other information available.

(2) IC 6-6-5.1-12 states that **after determining the value of a RV or truck camper, the BMV is required to classify every recreational vehicle and truck camper in its proper class by value according to a classification plan in IC 6-6-5.1-12. According to IC 6-6-5.1-13(a), the amount of excise tax imposed is determined using: (1) the classification of the recreational vehicle or truck camper; and (2) the age of the recreational vehicle or truck camper.**

e. *County Auditor and Property Tax Assessed Value Deductions.* IC 6-6-5.1-13(b) states that **a person who owns an RV or truck camper and is entitled to a property tax assessed valuation deduction under IC 6-1.1-12-13 [veteran with a partial disability], IC 6-1.1-12-14 [veteran with a total disability, or older veteran with partial disability], IC 6-1.1-12-16 [surviving spouse of veteran], or IC 6-1.1-12-17.4 [World War I veterans] in a year in which an excise tax is imposed and any part of the deduction is unused after allowance of the deduction on real property and personal property owned by the person, the person is entitled to a credit that reduces the annual excise tax imposed. The amount of the credit is determined by multiplying the amount of the unused deduction by two (2) and dividing the result by one hundred (100). The county auditor must, upon request, furnish a certified statement to the person verifying the allowable credit. The statement must be presented to and retained by the BMV to support the credit.**

f. *RVs and Truck Campers Not Subject to Property Assessment and Taxation.* HEA 1125, Section 58 is a non-Code provision, effective on **January 1, 2009**, that states the following:

(1) The new RV and truck camper excise tax applies to RVs registered and truck campers located in Indiana **after December 31, 2009** (i.e., pay-2010).

(2) **After December 31, 2008** (i.e., March 1, 2009 assessment date), an RV or truck camper, **except** for an RV or truck camper held in the inventory of recreational vehicles and truck campers held for sale by a manufacturer, distributor, or dealer in the course of business, may ***not*** be assessed as personal property for the purpose of the assessment and levy of personal property taxes.

g. *BMV and County Auditor Certifications to the Department in 2010.* HEA 1125, Section 59 is a non-Code provision, effective on January 1, 2009, that states the following:

(1) The BMV is required to certify to the Department the amount of excise tax collected and distributed to each county auditor in calendar year 2010.

(2) Each county auditor must certify to the Department the amount of excise tax collected and distributed to each taxing unit in the county in calendar year 2010.

h. *Department Reduction in Maximum Property Tax Levy.* HEA 1125, Section 60 is a non-Code provision, effective on **January 1, 2009**, that requires, **for property taxes due and payable in calendar year 2010, the Department to make a reduction in the maximum property tax levy for each taxing unit to account for the removal of assessed value as a result of the addition of the new RV and truck camper excise tax.**

5. Nonbusiness Personal Property. HEA 1125, Section 61 is a non-Code provision that is effective on **January 1, 2009**.

Department's Note: This section is nearly an identical restatement of the exemption of "nonbusiness personal property" from property taxation discussed in HEA 1125, Section 3 and IC 6-1.1-2-7. There is one difference, however. This non-Code provision includes an

exempt category for property similar to invalid chairs, ATVs, snowmobiles, human-powered boats, simply titled "similar property," that is also to be excluded from property taxation. The Department, in accordance with its authority to interpret the property tax laws of the state in IC 6-1.1-35-1(1), has added "nonbusiness personal property" golf carts to the exemption list.

Department's Note: *As a result of this expanded list of property exempt from property assessment and taxation, the Form 101 is unnecessary and will no longer be used, effective on January 1, 2009.*

a. *Definition.* "Nonbusiness personal property" is defined in this section the same as it is in HEA 1125, Section 3. "Nonbusiness personal property" means personal property that is *not*:

- (1) held for sale in the ordinary course of a trade or business;
- (2) held, used, or consumed in connection with the production of income; *or*
- (3) held as an investment.

b. *Purpose of Exemption of Nonbusiness Personal Property.* The purpose of the amendments and changes to the definition of "personal property" in IC 6-1.1-1-11 by HEA 1125, and the addition of the new Excise Tax on RVs and Truck Campers in IC 6-6-5.1 "is to exempt nonbusiness personal property (other than mobile homes) from property taxation to the fullest extent allowed under Article 10, Section 1 of the Constitution of the State of Indiana."

c. *Property Not Subject to Excise Tax or Property Taxation.* The General Assembly declared that it found nonbusiness personal property consisting of:

- (1) self-propelled vehicles that are *not* designed or regularly used for transporting property or persons on a public highway, such as invalid chairs, snowmobiles, yard and garden tractors, and ATVs;
- (2) trailers *not* subject to an excise tax under IC 6-6-5, IC 6-6-5.1, or IC 6-6-5.5;
- (3) human powered boats *not* subject to an excise tax under IC 6-6-11; *or*
- (4) similar property (e.g., golf carts) --

-- as *not* the type of property that must be subject to an excise tax in order to be exempted from property taxation.

d. *Severability.* If a property tax exemption granted by HEA 1125 is determined to be invalid, all remaining exemptions *not* determined to be invalid must be treated as severable under IC 1-1-1-8.

Department's Note: In other words, if one of the exemptions is found to be illegal, the illegality of that one exemption does not affect the other exemptions in HEA 1125.

e. ***After*** February 28, 2009 (i.e., March 1, 2009 assessment date):

(1) nonbusiness personal property may *not* be assessed as personal property for property tax purposes;

(2) a lien for property taxes first due and payable ***after*** December 31, 2009 (i.e., May 10, 2010 and November 10, 2010 property tax bills), does *not* attach to nonbusiness personal property; ***and***

(3) the Department, a county auditor, or an assessing official may *not* require an individual or entity to file a personal property tax return for nonbusiness personal property.

f. For property taxes due and payable in calendar year 2010, the Department must make a reduction in the maximum property tax levy for each taxing unit to account for the removal of assessed value for the items listed in IC 6-1.1-2-7(7) as “nonbusiness personal property” (e.g., ATVs, snowmobiles, invalid chairs, etc...). However, a taxing unit may apply for an excessive levy appeal under IC 6-1.1-18.5 to mitigate the effects of the removal of that assessed value and the reduction of the unit’s maximum levy.

g. For property taxes due and payable in calendar year 2011, the Department must make a reduction in the maximum property tax levy for each taxing unit to account for the removal of assessed value for the items listed in IC 6-1.1-2-7(7) as “nonbusiness personal property.”

h. County auditors and assessing officials must provide the BMV and the Department of State Revenue with the information from personal property tax returns and related records needed to implement the Excise Tax on Recreational Vehicles and Truck Campers, in 2009 on the schedule, in the manner, and in the form required by the Department.

i. Lastly, the definition of “personal property” in IC 6-1.1-1-11, as effective ***before*** January 1, 2009, applies for purposes of applying IC 6-1.1-23-2 and other provisions related to the collection of delinquent property taxes for levies that became a lien on property ***before*** January 1, 2009.

If you have any questions about this memorandum, please contact your assessment field representative. A list of assessment field representatives can be found at:
www.in.gov/dlgf/files/Assessment_Field_Repsby_County.pdf.